D.B. CIVIL SPECIAL APPEAL NO.569/2007
Ganga Ram Vs. Union of India & Ors.

Date : 28.5.2007

PRESENT

HON'BLE MR. JUSTICE RAJESH BALIA
HON'BLE MR. JUSTICE BHANWAROO KHAN

Mr. B.S. Sandhu for the appellant.

Having heard learned counsel for the appellant we find no force in this appeal.

The petitioner is son of Sukh Ram, who was a displaced person. According to the petitioner his father was allotted land in question as displaced person. But vide agreement dated 3.1.1961 the land came to be allotted to him as non-claimant on payment of price in instalment. The ownership in the land was to be transferred only on realisation of full price of land. Till ownership was transferred the agreement prohibited the allottee to sell, mortgage or part with possession of land to any one else. Till then the status of allottee was to be that of licensee. On realisation of full price deed of transferring ownership was to executed. This is the

cumulative effect of condition No.2 to 5 of agreement.

On 6.4.1978, the Revenue Tehsildar, Sri Ganganagar recommended to the Collector, Sri Ganganagar for cancellation of petitioner's allotment under Section 19(2) of the Displaced Persons Act, 1954 on the ground that petitioner's father had entered into an agreement to sale the land and parted with possession of the same. This order was made in presence of allottee and his counsel. On 24th April, 1978, the Collector, Sri Ganganagar issued notice for resumption of land and appointed Receiver. The order of Collector was not challenged by any one.

The petitioner did not challenge or raise objection to the notice but the alleged transferees Shri Arjun Singh and Bachhan Singh filed Civil Writ Petitions No.258/1978 and 280/1990 respectively for sustaining the allotment made in favour of the petitioner's father and their possession under agreement to sale. In the said writ petition, the present petitioners were parties, however, they did not raise any dispute independent of

Arjun Singh and Bachhan Singh. The writ petitions were dismissed on 28th January, 1997.

Thereafter a civil suit was filed by the said Arjun Singh and Bacchan Singh for specific performance of the agreement alleged to have been executed in their favour by father of the petitioner. The said suit was dismissed on 16.4.2002 in which also the petitioners were parties and appeal against the same order was dismissed on 5.7.2005.

On 20th October, 2005, the suit for permanent injunction was also dismissed.

Thereafter the Divisional Commissioner, Bikaner exercising powers under Section 33 of the Displaced Persons Act, 1954 also dismissed the application and on 22nd Nov., 2006, the land in question was auctioned for cultivation for one year by the Receiver and the present petitioner was put in possession as he was the highest bidder of the auction for one year. Having come in the possession of this land

as a bidder at auction held by receiver, the petitioner filed writ petition for further first time claiming that he should be declared to be rightful allottee of the land in question and all proceedings aforesaid should be quashed and the notice dated 24th April, 1978 may also be quashed.

The learned Single Judge noticing the chronology of the events leading to the writ petition dismissed the same on 15.5.2007.

We are in agreement of the learned Single Judge. The learned counsel for the petitioner contended in the first instance that the land was never transferred by his father by agreement to sale but was given for cultivation temporarily.

This only betrays that the petitioner's father having parted with possession of the land for a price, was not interested to prosecute the litigation and allowed the so called transferrees to prosecute the

remedies against the resumption of land. The said transferees have failed to retain the right in both the writ petitions as well as in civil suit. The petitioner has not still challenged those orders but waited until he acquired the possession of the land through auction by the Receiver and having acquired the possession of land in that manner now wants to get rid of past proceedings by sustaining the original allotment.

In these circumstances, it is apparent that in the course of getting into possession under an auction sale by the Receiver in pursuance of directions issued long back, the petitioner now wants to restart the litigation which has been lost by the person put in possession by him throughout in proceedings in which he too was a party. He is not entitled to any relief in extra ordinary jurisdiction.

The extra-ordinary jurisdiction cannot be exercised in such matters. Appeal is accordingly, dismissed.

[BHANWAROO KHAN], J. [RAJESH BALIA], J.

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